

**TEXT OF HOUSE AMENDMENT #2 TO THE SENATE AMENDMENT TO
H.R. 2642 MADE IN ORDER UNDER THE RULE**

**AMENDMENT TO THE SENATE AMENDMENT TO
H.R. 2642**

Page 60 of the Senate engrossed amendment, after
line 3, insert the following:

1 TITLE X—POLICY REGARDING OPERATIONS IN
2 IRAQ

3 SENSE OF CONGRESS REGARDING UNITED STATES
4 MILITARY PERSONNEL

5 SEC. 10001. It is the sense of the Congress that the
6 performance of United States military personnel should be
7 commended, their courage and sacrifice have been excep-
8 tional, and when they come home, their service should be
9 recognized appropriately.

10 UNITS DEPLOYED FOR COMBAT TO BE FULLY MISSION
11 CAPABLE

12 SEC. 10002. (a) The Congress finds that it is the pol-
13 icy of the Department of Defense that units should not
14 be deployed for combat unless they are rated “fully mis-
15 sion capable”.

16 (b) None of the funds made available in this or any
17 other Act may be used to deploy any unit of the Armed
18 Forces to Iraq unless the President has certified in writing
19 to the Committees on Appropriations and the Committees

1 on Armed Services of the House of Representatives and
2 the Senate at least 15 days in advance of the deployment
3 that the unit is fully mission capable in advance of entry
4 into Iraq.

5 (c) For purposes of subsection (b), the term “fully
6 mission capable” means capable of performing assigned
7 mission essential tasks to the prescribed standards under
8 the conditions expected in the theater of operation, con-
9 sistent with the guidelines set forth in the DoD Directive
10 7730.65, Subject: Department of Defense Readiness Re-
11 porting System; the Interim Force Allocation Guidance to
12 the Global Force Management Board, dated February 6,
13 2008; and Army Regulation 220-1, Subject: Unit Status
14 Reporting, dated December 19, 2006.

15 (d) The President, by certifying in writing to the
16 Committees on Appropriations and the Committees on
17 Armed Services of the House of Representatives and the
18 Senate that the deployment to Iraq of a unit that is not
19 assessed mission capable is required for reasons of na-
20 tional security and by submitting along with the certifi-
21 cation a report in classified and unclassified form detailing
22 the particular reason or reasons why the unit’s deployment
23 is necessary despite the unit commander’s assessment that
24 the unit is not mission capable, may waive the limitations
25 prescribed in subsection (b) on a unit-by-unit basis.

1 TIME LIMIT ON COMBAT DEPLOYMENTS

2 SEC. 10003. (a) The Congress finds that it is the pol-
3 icy of the Department of Defense that Army, Army Re-
4 serve, and National Guard units should not be deployed
5 for combat beyond 365 days and that Marine Corps and
6 Marine Corps Reserve units should not be deployed for
7 combat beyond 210 days.

8 (b) None of the funds made available in this or any
9 other Act may be obligated or expended to initiate the de-
10 velopment of, continue the development of, or execute any
11 order that has the effect of extending the deployment for
12 Operation Iraqi Freedom of—

13 (1) any unit of the Army, Army Reserve, or
14 Army National Guard beyond 365 days; or

15 (2) any unit of the Marine Corps or Marine
16 Corps Reserve beyond 210 days.

17 (c) The limitation prescribed in subsection (b) shall
18 not be construed to require force levels in Iraq to be de-
19 creased below the total United States force levels in Iraq
20 as of January 9, 2007.

21 (d) The President may waive the limitations pre-
22 scribed in subsection (b) on a unit-by-unit basis if the
23 President certifies in writing to the Committees on Appro-
24 priations and the Committees on Armed Services of the
25 House of Representatives and the Senate that the exten-

1 sion of a unit's deployment in Iraq beyond the period ap-
2 plicable to the unit under such subsection is required for
3 reasons of national security. The certification shall include
4 a report, in classified and unclassified form, detailing the
5 particular reason or reasons why the unit's extended de-
6 ployment is necessary.

7 DWELL TIME BETWEEN COMBAT DEPLOYMENTS

8 SEC. 10004. (a) The Congress finds that it is the pol-
9 icy of the Department of Defense that an Army, Army
10 Reserve, or National Guard unit should not be redeployed
11 for combat if the unit has been deployed within the pre-
12 vious 365 consecutive days and that a Marine Corps or
13 Marine Corps Reserve unit should not be redeployed for
14 combat if the unit has been deployed within the previous
15 210 days.

16 (b) None of the funds made available in this or any
17 other Act may be obligated or expended to initiate the de-
18 velopment of, continue the development of, or execute any
19 order that has the effect of deploying for Operation Iraqi
20 Freedom of—

21 (1) any unit of the Army, Army Reserve, or
22 Army National Guard if such unit has been deployed
23 within the previous 365 consecutive days; or

24 (2) any unit of the Marine Corps or Marine
25 Corps Reserve if such unit has been deployed within
26 the previous 210 consecutive days.

1 (c) The limitation prescribed in subsection (b) shall
2 not be construed to require force levels in Iraq to be de-
3 creased below the total United States force levels in Iraq
4 as of January 9, 2007.

5 (d) The President may waive the limitations pre-
6 scribed in subsection (b) on a unit-by-unit basis if the
7 President certifies in writing to the Committees on Appro-
8 priations and the Committees on Armed Services of the
9 House of Representatives and the Senate that the rede-
10 ployment of a unit to Iraq in advance of the expiration
11 of the period applicable to the unit under such subsection
12 is required for reasons of national security. The certifi-
13 cation shall include a report, in classified and unclassified
14 form, detailing the particular reason or reasons why the
15 unit's early redeployment is necessary.

16 LIMITATION ON INTERROGATION TECHNIQUES

17 SEC. 10005. (a) No individual in the custody or
18 under the effective control of an element of the intelligence
19 community or instrumentality thereof, regardless of na-
20 tionality or physical location, shall be subject to any treat-
21 ment or technique of interrogation not authorized by the
22 United States Army Field Manual on Human Intelligence
23 Collector Operations.

24 (b) In this section, the term "instrumentality", with
25 respect to an element of the intelligence community,

1 means a contractor or subcontractor at any tier of the ele-
2 ment of the intelligence community.

3 REGISTRATION WITH THE INTERNATIONAL COMMITTEE
4 OF THE RED CROSS

5 SEC. 10006. (a) None of the funds appropriated or
6 otherwise made available in this or any other Act may be
7 used to detain any individual who is in the custody or
8 under the effective control of an element of the intelligence
9 community or an instrumentality thereof unless the Inter-
10 national Committee of the Red Cross is provided notifica-
11 tion of the detention of and access to such person in a
12 timely manner and consistent with the practices of the
13 Armed Forces of the United States.

14 (b) For purposes of this section, the term "instru-
15 mentality", with respect to an element of the intelligence
16 community, means a contractor or subcontractor at any
17 tier of the element of the intelligence community.

18 (c) Nothing in this section shall be construed to cre-
19 ate or otherwise imply the authority to detain, or to limit
20 or otherwise affect any other rights or obligations which
21 may arise under the Geneva Conventions or other laws,
22 or to state all of the situations under which notification
23 to and access for the International Committee of the Red
24 Cross is required or allowed.

1 PROHIBITION OF PERMANENT BASES IN IRAQ

2 SEC. 10007. None of the funds appropriated or other-
3 wise made available in this or any other Act may be obli-
4 gated or expended by the United States Government for
5 a purpose as follows:

6 (1) To establish any military installation or
7 base for the purpose of providing for the permanent
8 stationing of United States Armed Forces in Iraq.

9 (2) To exercise United States control over any
10 oil resource of Iraq.

11 LIMITATION ON DEFENSE AGREEMENTS WITH THE
12 GOVERNMENT OF IRAQ

13 SEC. 10008. (a) None of the funds appropriated or
14 otherwise made available in this or any other Act may be
15 used to negotiate, enter into, or implement any agreement
16 with the Government of Iraq that includes security assur-
17 ances for mutual defense, unless the agreement—

18 (1) is in the form of a treaty requiring the ad-
19 vice and consent of the Senate (or is intended to
20 take that form in the case of an agreement under
21 negotiation); or

22 (2) is specifically authorized by a law enacted
23 after the date of enactment of this Act.

24 (b) For purposes of this section, an agreement shall
25 be considered to include security assurances for mutual

1 defense if it includes provisions addressing any of the fol-
2 lowing:

3 (1) A binding commitment to deploy United
4 States Armed Forces in defense of Iraq, or of any
5 government or faction in Iraq, against any foreign
6 or domestic threat.

7 (2) The number of United States Armed Forces
8 personnel to be deployed to, or stationed in, Iraq.

9 (3) The mission of United States Armed Forces
10 deployed to Iraq.

11 (4) The duration of the presence of United
12 States Armed Forces in Iraq.

13 PROHIBITION ON AGREEMENTS SUBJECTING ARMED
14 FORCES TO IRAQI CRIMINAL JURISDICTION

15 SEC. 10009. None of the funds appropriated or other-
16 wise made available in this or any other Act may be used
17 to negotiate, enter into, or implement an agreement with
18 the Government of Iraq that would subject members of
19 the Armed Forces of the United States to the jurisdiction
20 of Iraq criminal courts or punishment under Iraq law.

21 REQUIREMENT FOR MATCHING FUNDS FROM
22 GOVERNMENT OF IRAQ

23 SEC. 10010. (a) Notwithstanding any other provision
24 of law, funds appropriated or otherwise made available in
25 this or any other Act for assistance for Iraq, including
26 training, capacity building, and construction and repair of

1 infrastructure, shall be available only to the extent that
2 the Government of Iraq matches such assistance on a dol-
3 lar-for-dollar basis.

4 (b) subsection (a) shall not apply to—

5 (1) grants and cooperative agreements for pro-
6 grams to promote democracy and human rights;

7 (2) the Community Action Program and other
8 direct assistance to non-governmental organizations;

9 (3) humanitarian demining;

10 (4) assistance for refugees, internally displaced
11 persons, and civilian victims of military operations;

12 (5) intelligence or intelligence-related activities;

13 or

14 (6) projects with an estimated cost of less than
15 \$750,000 undertaken through the Commander's
16 Emergency Response Program.

17 (c) The Secretary of State and the Secretary of De-
18 fense shall certify to the Committees on Appropriations
19 of the House of Representatives and Senate, prior to the
20 initial obligation by their respective Departments of funds
21 covered by the limitation in subsection (a), that the Gov-
22 ernment of Iraq has committed to obligate matching funds
23 on a dollar-for-dollar basis. The Secretary of State shall
24 submit a report to the Committees on Appropriations not
25 later than September 30, 2009 detailing the amounts of

1 funds obligated and expended by the Government of Iraq
2 to meet the requirements of this section.

3 (d) Not later than 45 days after enactment of this
4 Act, the Secretary of State shall submit a report to the
5 Committees on Appropriations detailing the amounts pro-
6 vided by the Government of Iraq since June 30, 2004, to
7 assist Iraqi refugees in Syria, Jordan, and elsewhere, and
8 the amount of such assistance the Government of Iraq
9 plans to provide in fiscal year 2008. The Secretary shall
10 work expeditiously with the Government of Iraq to estab-
11 lish an account within its annual budget sufficient to, at
12 a minimum, match United States contributions on a dol-
13 lar-for-dollar basis to organizations and programs for the
14 purpose of assisting Iraqi refugees.

15 (e) As part of the report required by section 609 of
16 division L of the Consolidated Appropriations Act, 2008
17 (Public Law 110-161), the Secretary of Defense shall sub-
18 mit to Congress a report on the most recent annual budget
19 for the Government of Iraq, including—

20 (1) a description of amounts budgeted for sup-
21 port of Iraqi security and police forces and an as-
22 sessment of how planned funding will impact the
23 training, equipping and overall readiness of those
24 forces;

1 (2) an assessment of the capacity of the Gov-
2 ernment of Iraq to implement the budget as
3 planned, including reports on year-to-year spend
4 rates, if available; and

5 (3) a description of any budget surplus or def-
6 icit, if applicable.

7 PARTIAL REIMBURSEMENT FROM IRAQ FOR FUEL COSTS

8 SEC. 10011. (a) None of the funds made available
9 in this Act under the heading "Operation and Mainte-
10 nance, Defense-Wide" for the Office of the Secretary of
11 Defense or Washington Headquarters Services may be ob-
12 ligated or expended until the agreement described in sub-
13 section (b)(1) is complete and the report required by sub-
14 section (b)(2) has been transmitted to Congress, except
15 that the limitation in this subsection may be waived if the
16 President determines and certifies to the Committees on
17 Appropriations of the House of Representatives and Sen-
18 ate that such waiver is in the national security interests
19 of the United States.

20 (b) Not later than 90 days after enactment of this
21 Act, the President shall—

22 (1) complete an agreement with the Govern-
23 ment of Iraq to subsidize fuel costs for United
24 States Armed Forces operating in Iraq so the price
25 of fuel per gallon to those forces is equal to the dis-
26 counted price per gallon at which the Government of

1 Iraq is providing fuel for domestic Iraqi consump-
2 tion; and

3 (2) transmit a report to the Committees on Ap-
4 propriations on the details and terms of that agree-
5 ment.

6 (c) Amounts received from the Government of Iraq
7 under an agreement described in subsection (b)(1) shall
8 be credited to the appropriations or funds that incurred
9 obligations for the fuel costs being subsidized, as deter-
10 mined by the Secretary of Defense.

11 TIMETABLE FOR REDEPLOYMENT OF UNITED STATES

12 FORCES FROM IRAQ

13 SEC. 10012. (a) Notwithstanding any other provision
14 of law, funds appropriated or otherwise made available in
15 this Act may be used to plan and execute a safe and or-
16 derly redeployment of United States Armed Forces from
17 Iraq.

18 (b) Within 30 days after enactment of this Act, the
19 President shall commence an immediate and orderly rede-
20 ployment of United States Armed Forces from Iraq, with
21 a goal of completing such redeployment within 18 months.
22 The President shall endeavor to begin such redeployment
23 with units of the Armed Forces that have been deployed
24 in excess of 365 days, except to the extent those units
25 are needed to provide for the safe withdrawal of other

1 units of the Armed Forces or to protect United States and
2 Coalition personnel and infrastructure.

3 (c) After completion of the redeployment required by
4 subsection (b), members of the United States Armed
5 Forces may be deployed to, or maintained in, Iraq only
6 to the extent necessary to carry out the following missions:

7 (1) Protecting the diplomatic facilities, Armed
8 Forces, and citizens of the United States in Iraq.

9 (2) Conducting limited training of, equipping,
10 and providing logistical and intelligence support to,
11 Iraqi security forces.

12 (3) Engaging in targeted counterterrorism op-
13 erations against al-Qaeda, groups affiliated with al-
14 Qaeda, and other terrorist organizations in Iraq.

15 (d) Not later than July 1, 2008, and every 90 days
16 thereafter, the Secretary of Defense shall submit to the
17 congressional defense committees a report setting forth
18 the following:

19 (1) The current plan for and the status of the
20 reduction of United States Armed Forces in Iraq
21 and the transition of the Armed Forces in Iraq to
22 a limited presence whose missions do not exceed the
23 missions specified in subsection (c), including the as-
24 sociated force reductions and adjustments and ex-

1 pectations with respect to timelines and the force
2 levels anticipated to perform those missions.

3 (2) A comprehensive current description of ef-
4 forts to prepare for the reduction and transition of
5 United States Armed Forces in Iraq in accordance
6 with this section and to limit any destabilizing con-
7 sequences of such reduction and transition, including
8 a description of efforts to work with the United Na-
9 tions and countries in the region toward that objec-
10 tive.

11 (e) Not later than 45 days after enactment of this
12 Act, the Secretary of State shall provide to the Commit-
13 tees on Appropriations of the House of Representatives
14 and Senate a strategy for civilian-led post-conflict sta-
15 bilization and reconstruction assistance for Iraq. The
16 strategy (which may be provided in classified form if nec-
17 essary) shall include—

18 (1) the plans and timetable for transfer of all
19 responsibility for United States post-conflict sta-
20 bilization and reconstruction assistance from the De-
21 partment of Defense to the Department of State and
22 the United States Agency for International Develop-
23 ment; and

1 (2) the staff, security and resource require-
2 ments for United States diplomatic efforts and as-
3 sistance programs in Iraq.

4 TITLE XI—REFORMS RELATED TO WAR

5 PROFITEERING AND CONTRACTORS

6 CHAPTER 1—ADJUSTMENT OF WARTIME

7 STATUTE OF LIMITATIONS

8 ADJUSTMENT OF WARTIME STATUTE OF LIMITATIONS

9 SEC. 11101. Section 3287 of title 18, United States
10 Code, is amended—

11 (1) by inserting “or Congress has enacted a
12 specific authorization for the use of the Armed
13 Forces, as described in section 5(b) of the War Pow-
14 ers Resolution (50 U.S.C. 1544(b)),” after “is at
15 war”;

16 (2) by inserting “or directly connected with or
17 related to the authorized use of the Armed Forces”
18 after “prosecution of the war”;

19 (3) by striking “three years” and inserting “5
20 years”;

21 (4) by striking “proclaimed by the President”
22 and inserting “proclaimed by a Presidential procla-
23 mation, with notice to Congress,”; and

24 (5) by adding at the end the following: “For
25 purposes of applying such definitions in this section,

1 the term ‘war’ includes a specific authorization for
2 the use of the Armed Forces, as described in section
3 5(b) of the War Powers Resolution (50 U.S.C.
4 1544(b)).”.

5 CHAPTER 2—WAR PROFITEERING AND FRAUD

6 WAR PROFITEERING AND FRAUD

7 SEC. 11201. (a) PROHIBITION ON WAR PROFIT-
8 EERING.—

9 (1) IN GENERAL.—Chapter 47 of title 18,
10 United States Code, is amended by adding at the
11 end the following:

12 “§ 1041. War profiteering and fraud

13 “(a) PROHIBITION.—Whoever, in any matter involv-
14 ing a contract with, or the provision of goods or services
15 to, the United States or a provisional authority, in connec-
16 tion with a mission of the United States Government over-
17 seas, knowingly—

18 “(1)(A) executes or attempts to execute a
19 scheme or artifice to defraud the United States or
20 that authority; or

21 “(B) materially overvalues any good or service
22 with the intent to defraud the United States or that
23 authority;

24 shall be fined not more than \$1,000,000 or impris-
25 oned not more than 20 years, or both; or

1 “(2) in connection with the contract or the pro-
2 vision of those goods or services—

3 “(A) falsifies, conceals, or covers up by any
4 trick, scheme, or device a material fact;

5 “(B) makes any materially false, fictitious,
6 or fraudulent statements or representations; or

7 “(C) makes or uses any materially false
8 writing or document knowing the same to con-
9 tain any materially false, fictitious, or fraudu-
10 lent statement or entry;

11 shall be fined not more than \$1,000,000 or impris-
12 oned not more than 10 years, or both.

13 “(b) EXTRATERRITORIAL JURISDICTION.—There is
14 extraterritorial Federal jurisdiction over an offense under
15 this section.

16 “(c) VENUE.—A prosecution for an offense under
17 this section may be brought—

18 “(1) as authorized by chapter 211 of this title;

19 “(2) in any district where any act in further-
20 ance of the offense took place; or

21 “(3) in any district where any party to the con-
22 tract or provider of goods or services is located.”.

23 “(2) TABLE OF SECTIONS.—The table of sections
24 for chapter 47 of such title is amended by adding at
25 the end the following:

“1041. War profiteering and fraud.”.

1 (b) CRIMINAL FORFEITURE.—Section 982(a)(2)(B)
2 of title 18, United States Code, is amended by striking
3 “or 1030” and inserting “1030, or 1041”.

4 (c) MONEY LAUNDERING.—Section 1956(c)(7)(D) of
5 title 18, United States Code, is amended by inserting “sec-
6 tion 1041 (relating to war profiteering and fraud),” after
7 “liquidating agent of financial institution),”.

8 (d) RICO.—Section 1961(1) of title 18, United
9 States Code, is amended by inserting “section 1041 (relat-
10 ing to war profiteering and fraud),” after “in connection
11 with access devices),”.

12 CHAPTER 3—MILITARY EXTRATERRITORIAL

13 JURISDICTION

14 SHORT TITLE

15 SEC. 11301. This chapter may be cited as the
16 “MEJA Expansion and Enforcement Act of 2008”.

17 LEGAL STATUS OF CONTRACT PERSONNEL

18 SEC. 11302. (a) CLARIFICATION OF MILITARY
19 EXTRATERRITORIAL JURISDICTION ACT.—

20 (1) INCLUSION OF FEDERAL EMPLOYEES AND
21 CONTRACTORS.—Section 3261(a) of title 18, United
22 States Code, is amended—

23 (A) in paragraph (1), by striking “or” at
24 the end;

1 (B) in paragraph (2), by striking the
2 comma at the end and inserting a semicolon;
3 and

4 (C) by inserting after paragraph (2) the
5 following new paragraphs:

6 “(3) while employed by any Department or
7 agency of the United States other than the Armed
8 Forces in a foreign country in which the Armed
9 Forces are conducting a qualifying military oper-
10 ation; or

11 “(4) while employed as a security officer or se-
12 curity contractor by any Department or agency of
13 the United States other than the Armed Forces.”

14 (2) DEFINITIONS.—Section 3267 of title 18,
15 United States Code, is amended—

16 (A) in paragraph (1), by striking subpara-
17 graph (A) and inserting the following new sub-
18 paragraph:

19 “(A) employed by or performing services
20 under a contract with or grant from the De-
21 partment of Defense (including a non-
22 appropriated fund instrumentality of the De-
23 partment) as—

24 “(i) a civilian employee (including an
25 employee from any other Executive agency

1 on temporary assignment to the Depart-
2 ment of Defense);

3 “(ii) a contractor (including a subcon-
4 tractor at any tier); or

5 “(iii) an employee of a contractor (in-
6 cluding a subcontractor at any tier);”; and

7 (B) by adding at the end the following new
8 paragraphs:

9 “(5) The term ‘employed by any Department or
10 agency of the United States other than the Armed
11 Forces’ means—

12 “(A) employed by or performing services
13 under a contract with or grant from any De-
14 partment or agency of the United States, or
15 any provisional authority funded in whole or
16 substantial part or created by the United States
17 Government, other than the Department of De-
18 fense as—

19 “(i) a civilian employee;...

20 “(ii) a contractor (including a subcon-
21 tractor at any tier); or

22 “(iii) an employee of a contractor (in-
23 cluding a subcontractor at any tier);

1 “(B) present or residing outside the
2 United States in connection with such employ-
3 ment; and

4 “(C) not a national of or ordinarily a resi-
5 dent in the host nation.

6 “(6) The term ‘employed as a security officer or
7 security contractor by any Department or agency of
8 the United States other than the Armed Forces’
9 means—

10 “(A) employed by or performing services
11 under a contract with or grant from any De-
12 partment or agency of the United States, or
13 any provisional authority funded in whole or
14 substantial part or created by the United States
15 Government, other than the Department of De-
16 fense as—

17 “(i) a civilian employee;

18 “(ii) a contractor (including a subcon-
19 tractor at any tier); or

20 “(iii) an employee of a contractor (in-
21 cluding a subcontractor at any tier);

22 “(B) authorized in the course of such em-
23 ployment—

24 “(i) to provide physical protection to
25 or security for persons, places, buildings,

1 facilities, supplies, or means of transpor-
2 tation;

3 “(ii) to carry or possess a firearm or
4 dangerous weapon, as defined by section
5 930(g)(2) of this chapter;

6 “(iii) to use force against another; or

7 “(iv) to supervise individuals per-
8 forming the activities described in clause
9 (i), (ii) or (iii);

10 “(C) present or residing outside the United
11 States in connection with such employment; and

12 “(D) not a national of or ordinarily resi-
13 dent in the host nation.

14 “(7) The term ‘qualifying military operation’
15 means—

16 “(A) a military operation covered by a dec-
17 laration of war or an authorization of the use
18 of military force by Congress;

19 “(B) a contingency operation (as defined
20 in section 101 of title 10); or

21 “(C) any other military operation outside
22 of the United States, including a humanitarian
23 assistance or peace keeping operation, provided
24 such operation is conducted pursuant to an

1 order from or approved by the Secretary of De-
2 fense.”.

3 (b) DEPARTMENT OF JUSTICE INSPECTOR GENERAL
4 REPORT.—

5 (1) REPORT REQUIRED.—Not later than 180
6 days after the date of the enactment of this Act, the
7 Inspector General of the Department of Justice, in
8 consultation with the Inspectors General of the De-
9 partment of Defense, the Department of State, the
10 United States Agency for International Develop-
11 ment, the Department of Agriculture, the Depart-
12 ment of Energy, and other appropriate Federal de-
13 partments and agencies, shall submit to Congress a
14 report in accordance with this subsection.

15 (2) CONTENT OF REPORT.—The report under
16 paragraph (1) shall include, for the period beginning
17 on October 1, 2001, and ending on the date of the
18 report—

19 (A) unless the description pertains to non-
20 public information that relates to an ongoing
21 investigation or criminal or civil proceeding
22 under seal, a description of any alleged viola-
23 tions of section 3261 of title 18, United States
24 Code, reported to the Inspector Generals identi-

1 fied in paragraph (1) or the Department of
2 Justice, including—

3 (i) the date of the complaint and the
4 type of offense alleged;

5 (ii) whether any investigation was
6 opened or declined based on the complaint;

7 (iii) whether the investigation was
8 closed, and if so, when it was closed;

9 (iv) whether a criminal or civil case
10 was filed as a result of the investigation,
11 and if so, when it was filed; and

12 (v) any charges or complaints filed in
13 those cases; and

14 (B) unless the description pertains to non-
15 public information that relates to an ongoing
16 investigation or criminal or civil proceeding
17 under seal, and with appropriate safeguards for
18 the protection of national security information,
19 a description of any shooting or escalation of
20 force incidents in Iraq or Afghanistan involving
21 alleged misconduct by persons employed as a
22 security officer or security contractor by any
23 Department or agency of the United States,
24 and any official action taken against such per-
25 sons.

1 (3) FORM OF REPORT.—The report under para-
2 graph (1) shall be submitted in unclassified form,
3 but may contain a classified annex as appropriate.

4 INVESTIGATIVE UNITS FOR CONTRACTOR OVERSIGHT

5 SEC. 11303. (a) ESTABLISHMENT OF INVESTIGATIVE
6 UNITS FOR CONTRACTOR OVERSIGHT.—

7 (1) IN GENERAL.—The Attorney General, in
8 consultation with the Secretary of Defense, the Sec-
9 retary of State, the Secretary of Homeland Security,
10 and the heads of any other Federal departments or
11 agencies responsible for employing private security
12 contractors or contractors (or subcontractors at any
13 tier) in a foreign country where the Armed Forces
14 are conducting a qualifying military operation—

15 (A) shall assign adequate personnel and re-
16 sources through the creation of Investigative
17 Units for Contractor Oversight to investigate
18 allegations of criminal violations under para-
19 graphs (3) and (4) of section 3261(a) of title
20 18, United States Code (as amended by section
21 11302(a) of this chapter); and

22 (B) may authorize the overseas deployment
23 of law enforcement agents and other Depart-
24 ment of Justice personnel for that purpose.

25 (2) RULE OF CONSTRUCTION.—Nothing in this
26 subsection shall limit any existing authority of the

1 Attorney General or any Federal law enforcement
2 agency to investigate violations of Federal law or de-
3 ploy personnel overseas.

4 (b) REFERRAL FOR PROSECUTION.—Upon conclu-
5 sion of an investigation of an alleged violation of sections
6 3261(a)(3) and 3261(a)(4) of title 18, United States
7 Code, an Investigative Unit for Contractor Oversight may
8 refer the matter to the Attorney General for further ac-
9 tion, as appropriate in the discretion of the Attorney Gen-
10 eral.

11 (c) RESPONSIBILITIES OF THE ATTORNEY GEN-
12 ERAL.—

13 (1) INVESTIGATION.—The Attorney General
14 shall have the principal authority for the enforce-
15 ment of sections 3261(a)(3) and 3261(a)(4) of title
16 18, United States Code, and shall have the authority
17 to initiate, conduct, and supervise investigations of
18 any alleged violations of such sections 3261(a)(3)
19 and 3261(a)(4).

20 (2) ASSISTANCE ON REQUEST OF THE ATTOR-
21 NEY GENERAL.—Notwithstanding any statute, rule,
22 or regulation to the contrary, the Attorney General
23 may request assistance from the Secretary of De-
24 fense, the Secretary of State, or the head of any
25 other Executive agency to enforce this chapter. This

1 requested assistance may include the assignment of
2 additional personnel and resources to an Investiga-
3 tive Unit for Contractor Oversight established by the
4 Attorney General under subsection (a).

5 (3) ANNUAL REPORT.—Not later than one year
6 after the date of enactment of this Act, and annually
7 thereafter, the Attorney General, in consultation
8 with the Secretary of Defense and the Secretary of
9 State, shall submit to Congress a report con-
10 taining—

11 (A) the number of violations of sections
12 3261(a)(3) and 3261(a)(4) of title 18, United
13 States Code, received, investigated, and referred
14 for prosecution by Federal law enforcement au-
15 thorities during the previous year;

16 (B) the number and location of Investiga-
17 tive Units for Contractor Oversight deployed to
18 investigate violations of such sections
19 3261(a)(3) and 3261(a)(4) during the previous
20 year; and

21 (C) any recommended changes to Federal
22 law that the Attorney General considers nec-
23 essary to enforce this chapter and the amend-
24 ments made by this chapter and chapter 212 of
25 title 18, United States Code.

1 REMOVAL PROCEDURES FOR NON-DEPARTMENT OF
2 DEFENSE EMPLOYEES AND CONTRACTORS

3 SEC. 11304. (a) ATTORNEY GENERAL REGULA-
4 TIONS.—Section 3266 of title 18, United States Code, is
5 amended by adding at the end the following:

6 “(d) The Attorney General, after consultation with
7 the Secretary of Defense, the Secretary of State, and the
8 Director of National Intelligence, may prescribe regula-
9 tions governing the investigation, apprehension, detention,
10 delivery, and removal of persons described in sections
11 3261(a)(3) and 3261(a)(4) and describing the notice due,
12 if any, foreign nationals potentially subject to the criminal
13 jurisdiction of the United States under those sections.”.

14 (b) CLARIFYING AND CONFORMING AMENDMENTS.—

15 (1) IN GENERAL.—Chapter 212 of title 18,
16 United States Code, is amended—

17 (A) in section 3261(a)—

18 (i) by inserting “against the United
19 States” after “offense” the first time it ap-
20 pears; and

21 (ii) by inserting “within the United
22 States or” after “had been engaged in”;

23 (B) in section 3262—

24 (i) in subsection (a), by striking “sec-
25 tion 3261(a)” the first place it appears

1 and inserting “section 3261(a)(1) or
2 3261(a)(2)”;

3 (ii) by redesignating subsection (b) as
4 subsection (c); and

5 (iii) by inserting after subsection (a)
6 the following new subsection (b):

7 “(b) The Attorney General may designate and au-
8 thorize any person serving in a law enforcement position
9 in the Department of Justice, the Department of Defense,
10 the Department State, or any other Executive agency to
11 arrest, in accordance with applicable international agree-
12 ments, outside the United States any person described in
13 section 3261(a) if there is probable cause to believe that
14 such person violated section 3261(a).”;

15 (C) in section 3263(a), by striking “section
16 3261(a)” the first place it appears and insert-
17 ing “section 3261(a)(1) or 3261(a)(2)”;

18 (D) in section 3264(a), by inserting “de-
19 scribed in section 3261(a)(1) or 3261(a)(2)”
20 before “arrested”;

21 (E) section 3265(a)(1) by inserting “de-
22 scribed in section 3261(a)(1) or 3261(a)(2)”
23 before “arrested”; and

1 (F) in section 3266(a), by striking “under
2 this chapter” and inserting “described in sec-
3 tion 3261(a)(1) or 3261(a)(2)”.

4 (2) ADDITIONAL AMENDMENT.—Section 7(9) of
5 title 18, United States Code, is amended by striking
6 “section 3261(a)” and inserting “section 3261(a)(1)
7 or 3261(a)(2)”.

8 RULES OF CONSTRUCTION

9 SEC. 11305. (a) IN GENERAL.—Nothing in this
10 chapter or the amendments made by this chapter shall
11 apply to authorized and otherwise lawful intelligence ac-
12 tivities carried out by or at the direction of the United
13 States.

14 (b) DEFENSES.—Nothing in this section shall be con-
15 strued to limit or extinguish any defense or protection oth-
16 erwise available to any person or entity from suit, civil
17 or criminal liability, or damages, or to provide immunity
18 from prosecution for any criminal offense by the proper
19 authorities.

20 (c) EXISTING EXTRATERRITORIAL JURISDICTION.—
21 Nothing in this chapter or the amendments made by this
22 chapter shall be construed to limit or affect the
23 extraterritorial jurisdiction related to any Federal statute
24 not amended by this chapter.

1 DEFINITION

2 SEC. 11306. For purposes of this chapter and the
3 amendments made by this chapter, the term “Executive
4 agency” has the meaning given in section 105 of title 5,
5 United States Code.

6 EFFECTIVE DATE

7 SEC. 11307. (a) IMMEDIATE EFFECTIVENESS.—The
8 provisions of this chapter shall enter into effect imme-
9 diately upon the enactment of this Act.

(b) IMPLEMENTATION.—The Attorney General and the head of any other Federal department or agency to which this chapter applies shall have 90 days after the date of the enactment of this Act to ensure compliance with the provisions of this chapter.

